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DEVELOPMENTS CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON THE NATIONAL EMERGENCY DECLARED BY EXECUTIVE ORDER NO. 12938 OF NOVEMBER 14, 1994, IN RESPONSE TO THE THREAT POSED BY THE PROLIFERATION OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS ("WEAPONS OF MASS DESTRUCTION") AND OF THE MEANS OF DELIVERING SUCH WEAPONS, PURSUANT TO 50 U.S.C. 1703(c)



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To the Congress of the United States:

As required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month report on the national emergency declared by Executive Order 12938 of November 14, 1994, in response to the threat posed by the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and of the means of delivering such weapons.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 9, 1998.*

Report to the Congress on
the National Emergency Concerning
Weapons of Mass Destruction

On November 14, 1994, in light of the dangers of the proliferation of nuclear, biological and chemical weapons ("weapons of mass destruction" -- WMD) and of the means of delivering such weapons, I issued Executive Order No. 12938, and declared a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on the anniversary date of its declaration, unless I publish in the Federal Register and transmit to the Congress a notice of its continuation. Because the proliferation of weapons of mass destruction continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, on November 13, 1997, I extended the national emergency declared in Executive Order No. 12938.

The following report is made pursuant to Section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703) and Section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), regarding activities taken and money spent in the last six months pursuant to the emergency declaration. Additional information on nuclear, missile, and/or chemical and biological weapons (CBW) nonproliferation efforts is contained in the most recent annual Report on the Proliferation of Missiles and Essential Components of Nuclear, Biological and Chemical Weapons, provided to Congress pursuant to Section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190), also known as the "Nonproliferation Report," and the most recent annual report provided to the Congress pursuant to Section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102-182), also known as the "CBW Report."

Chemical and Biological Weapons (CBW)

The export control regulations issued as part of the Enhanced Proliferation Control Initiative (EPCI) remained fully in force and continue to be applied in order to control the export of items with potential use in chemical or biological weapons or unmanned delivery systems for weapons of mass destruction.

Chemical weapons (CW) continue to pose a very serious threat to our security and that of our allies. On April 29, 1997, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the Chemical Weapons Convention or CWC) entered into force with 87 of the CWC's 165 signatories as original States Parties. The United States was among their number, having deposited its instrument of ratification on April 25. Russia ratified the

CWC on November 5, 1997, and became a State Party on December 5, 1997. As of April 15, 1998, 107 countries have become States Parties.

The implementing body for the CWC -- the Organization for the Prohibition of Chemical Weapons (OPCW) -- was established at entry-into-force (EIF) of the Convention on April 29, 1997. The OPCW, located in The Hague, is responsible for implementing the CWC. It collects declarations, conducts inspections, and serves as a forum for consultation and cooperation among States Parties. It consists of the Conference of States Parties, the Executive Council (EC), and the Technical Secretariat (TS).

The EC consists of 41 States Parties (including the United States) and acts as the governing body for the OPCW between meetings of the Conference of States Parties. Since EIF, the EC has met numerous times to address issues such as scale of assessments, CW production facility conversion requests, facility and transitional verification arrangements, and staff regulations.

The TS carries out the verification provisions of the CWC, and has a staff of approximately 500, including about 200 inspectors trained and equipped to inspect military and industrial facilities throughout the world. The OPCW has conducted nearly 200 routine inspections in some 20 countries. Nearly 50 of those inspections were conducted in the United States. The OPCW maintains a permanent inspector presence at operational U.S. CW destruction facilities in Utah, Maryland, Nevada, and Johnston Island.

The United States is determined to seek full implementation of the concrete measures in the CWC that will raise the costs and the risks for any states' or terrorists' attempting to engage in chemical weapons-related activities. The CWC's declaration requirements will improve our knowledge of possible chemical weapons activities. Its inspection provisions provide for access to declared and undeclared facilities and locations, thus making clandestine chemical weapons production and stockpiling more difficult, more risky and more expensive.

Due to the lack of implementing legislation, the U.S. has not submitted its industrial declaration to the OPCW, and therefore is in non-compliance with the Convention. The implications of U.S. non-compliance are serious. It has, among other things, undermined our ability to get other States Parties to make complete and accurate declarations, and to submit their declarations on time.

Countries that refuse to join the CWC will be politically isolated and banned from trading with States Parties in certain key chemicals. The relevant treaty provision is specifically

designed to penalize in a concrete way countries that refuse to join the rest of the world in eliminating the threat of chemical weapons.

The United States also continues to play a leading role in the international effort to reduce the threat from biological weapons (BW). We are an active participant in the Ad Hoc Group (AHG) striving to create a legally binding protocol to strengthen and enhance compliance with the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (The Biological Weapons Convention or BWC). This Ad Hoc Group was mandated by the September 1994 BWC Special Conference. The Fourth BWC Review Conference, held in November 1996, urged the AHG to complete the protocol as soon as possible but not later than the next Review Conference to be held in 2001. Work is progressing on a draft rolling text through insertion of national views and clarification of existing text. Four AHG working sessions were scheduled for 1998. Two have been completed and two are scheduled: one for the summer (June 22-July 10), and one in the fall (September-October).

On January 27, 1998, during the State of the Union Address, I announced that the U.S. would lead the effort to erect stronger international barriers against the proliferation and use of BW by strengthening the BWC with a new international system to detect and deter cheating. The U.S. is seeking to conclude the framework for a strong BWC protocol by the end of 1998. The U.S. will work closely with U.S. industry to develop and reach international agreement on: declarations, voluntary visits, non-challenge clarifying visits, and challenge investigations.

The United States continued to be a leading member of the 30-member Australia Group (AG) CBW nonproliferation regime. The U.S. attended the most recent annual AG plenary session from October 6-9, 1997, during which the Group continued to focus on strengthening AG export controls and sharing information to address the threat of CBW terrorism. At the behest of the United States, the AG first began in-depth political-level discussion of CBW terrorism during the 1995 plenary session following the Tokyo subway nerve gas attack earlier that year. At the 1996 plenary, the U.S. urged AG members to exchange national points of contact for AG terrorism matters. At the 1997 plenary, the AG accepted a U.S. proposal to survey all AG members on legal and regulatory efforts each has taken to counter this threat.

The Group also reaffirmed the members' collective belief that full adherence to the CWC and the BWC is the best way to achieve permanent global elimination of CBW, and that all states adhering to these Conventions have an obligation to ensure that their national activities support this goal.

AG participants continue to seek to ensure that all relevant national measures promote the object and purposes of the BWC and CWC. The AG nations reaffirmed their belief that existing national export licensing policies on chemical weapons-related items fulfill the obligation established under Article I of the CWC and Article VI of the BWC that States Parties never assist, in any way, the acquisition, retention, transfer, or use of chemical or biological weapons. Given this understanding, the AG members also reaffirmed their commitment to continuing the Group's activities now that the CWC has entered into force.

The AG also reaffirmed its commitment to continue its active outreach program of briefings for non-AG countries, and to promote regional consultations on export controls and nonproliferation to further awareness and understanding of national policies in these areas.

During the last six months, we continued to examine closely intelligence and other reports of trade in chemical weapons-related material and technology which might require action, including evaluating whether sanctions under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 were warranted. In February 1998, the U.S. Government imposed trade sanctions on Berge Aris Balanian, a fugitive from justice previously residing in Germany and last known to be in Lebanon. We determined he knowingly and materially contributed to the Libyan CW program.

The United States continues to cooperate with its AG partners in stopping shipments of proliferation concern. By sharing information through diplomatic and other channels, we and our AG partners have been successful in interdicting various shipments destined to CBW programs.

Missiles for Weapons of Mass Destruction Delivery

During the reporting period, the United States carefully controlled exports that could contribute to unmanned delivery systems for weapons of mass destruction and closely monitored activities of potential missile proliferation concern. We also continued to implement missile sanctions provisions in the National Defense Authorization Act for Fiscal Years 1992 and 1993 in cases where sanctionable activity was determined to have occurred. In August 1997, we imposed sanctions against two North Korean entities determined to have engaged in missile proliferation activities. Similar sanctions imposed in May 1996 remain in effect against two entities in Iran and one entity in North Korea for transfers involving Category II Missile Technology Control Regime (MTCR) Annex items. In April 1998,

we imposed sanctions on a North Korean and a Pakistani entity involved in the transfer of MTCR-controlled equipment and technology from North Korea to Pakistan.

During this reporting period, MTCR Partners continued to share information about proliferation problems with each other, and with other potential supplier, consumer, and transshipment states. Partners also emphasized the need for implementing effective export control systems. This cooperation has resulted in the interdiction of missile-related materials intended for use in missile programs of concern.

The United States was an active participant in the MTCR's Twelfth Plenary Meeting in Tokyo, Japan, November 2-7, 1997. At the Plenary, the MTCR Partners reaffirmed their commitment to controlling exports to prevent the proliferation of missiles capable of delivering weapons of mass destruction. They also recognized the need to build additional support for the Regime, and issued an appeal to all countries to support the MTCR's nonproliferation goals and abide by its Guidelines. In addition, the Partners undertook to continue to increase their efforts to promote openness and transparency through enhanced dialogue with countries outside the Regime. In particular, the Partners recognized the utility of expert level workshops at which Partners and non-members work side-by-side to increase their understanding of priority missile nonproliferation issues -- such as risk assessment in licensing and combating proliferators' misuse of brokering -- and devise practical solutions. They also recognized the usefulness of contacting non-members via regional security fora.

At Tokyo, the MTCR Partners also recognized that missile proliferation presents a serious threat to regional stability and global security and agreed to continue to give priority to this issue. Regional proliferation issues will be a key topic of discussion at the MTCR's May 1998 Reinforced Point of Contact (RPOC) meeting. The Partners also decided at Tokyo to continue to share information about activities and programs of missile proliferation concern and to consider additional steps they can take, individually and collectively, to prevent the proliferation of delivery systems for weapons of mass destruction.

In addition to their policy discussions, the MTCR Partners also reviewed technical issues at Tokyo. They agreed to several changes to the MTCR Annex including adopting a U.S. proposal to control titanium-stabilized duplex stainless steel (TI-DSS) under Category II, Item 8. TI-DSS is used to produce SCUD missiles.

As noted above, regional proliferation will be a key agenda issue for the MTCR's RPOC meeting. The United States plans to encourage the Partners to pay special attention to the missile proliferation threat posed by Iran's ongoing pursuit of an indigenous missile production capability. We also will encourage the MTCR Partners to adopt concrete steps that they can take individually and collectively to address the Regime's regional proliferation concerns.

During this reporting period, the United States also continued to work unilaterally and in concert with other MTCR Partners to combat missile proliferation and to encourage non-MTCR countries to adopt responsible export control practices and to adhere unilaterally to the MTCR Guidelines. Since the last report, we have continued our missile nonproliferation dialogue with China, the Republic of Korea, and North Korea. We also have pursued missile nonproliferation talks with Egypt, India, Pakistan, and Ukraine.

In addition, in response to reports that Iranian entities continued to seek sensitive items from Russian firms for use in Iran's missile program, the United States continued its intensive, high-level dialogue with Russia on Russia-Iran missile cooperation. We remain concerned about this issue, and we are working closely with Russia to halt all cooperation between Russian entities and the Iranian missile program. This effort has achieved some significant results. For example, on January 22, Russia took an important step by issuing an executive order that substantially strengthened the Russian export control system and provided the GOR with new authority to stop all transfers of goods and services to foreign missile programs and programs of weapons of mass destruction.

Putting this legal authority in place was an important step, but problems remain. Our focus now is on implementation and enforcement. The United States and Russia are working together bilaterally to continue to strengthen Russian export controls, including implementation of the new "catch-all" authority. We will monitor closely progress in this area.

Nuclear Weapons

In May 1998, after this report was written but before it was submitted, India and then Pakistan conducted a number of nuclear tests. A complete analysis of these disturbing events and of the U.S. and international response will be provided in a subsequent report.

Notwithstanding these developments, the past few years have witnessed progress in our efforts to curb the broader spread of nuclear weapons. In a truly historic step, the 50th UN General

Assembly on September 10, 1996, adopted and called for signature of the Comprehensive Nuclear Test Ban Treaty (CTBT), negotiated in the Conference on Disarmament in Geneva. The overwhelming passage of this UN resolution (158-3-5) demonstrates the CTBT's strong international support and marks a major success for United States foreign policy. On September 24, 1996, I and other national leaders signed the CTBT in New York.

During 1997 and the first part of 1998, CTBT signatories have conducted numerous meetings of the Preparatory Commission in Vienna, seeking to promote rapid completion of the International Monitoring System established by the Treaty. On September 22, 1997, I transmitted the CTBT to the Senate, requesting prompt advice and consent to ratification.

In banning all nuclear explosions, the CTBT will serve several United States national security interests. It will constrain the development and qualitative improvement of nuclear weapons; end the development of advanced new types; contribute to the prevention of nuclear proliferation and the process of nuclear disarmament; and strengthen international peace and security. The CTBT marks an historic milestone in our drive to reduce the nuclear threat and to build a safer world.

Formal preparations for the year 2000 Review Conference for the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) continued in 1998 with the second of three annual Preparatory Committee meetings of the Parties to the Treaty. The U.S. is committed to working to ensure that the 2000 NPT Review Conference will further strengthen the NPT and reinforce global nuclear non-proliferation objectives. Since the 1995 NPT Conference, eight additional states have joined the NPT, leaving only five states worldwide currently outside the NPT regime. The NPT Exporters (Zangger) Committee added China to its membership in 1997.

The Nuclear Suppliers Group (NSG) continued its efforts to upgrade control lists and export control procedures. NSG members confirmed their agreement to clarifications to the nuclear trigger list to accord with trigger list changes agreed to by the members of the NPT Exporters (Zangger) Committee, and the International Atomic Energy Agency published these understandings on September 16, 1997. The NSG also is actively pursuing steps to enhance the transparency of the export regime in accordance with the call in Principles 16 and 17 of the 1995 NPT Review and Extension Conference.

The NSG held an export control seminar in Vienna on October 8 and 9, 1997, which described and explained the role of the NSG (and the Zangger Committee) in preventing nuclear proliferation. The NSG also continued efforts to enhance information sharing

among members regarding the nuclear programs of proliferant countries by (1) "officially" linking the NSG members through a dedicated computer network allowing for real-time distribution of license denial information, and by (2) creating a separate session for exchange of information on the margins of NSG plenary meetings.

NSG membership increased to 35 with the addition of Latvia. The ultimate goal of the NSG is to obtain the agreement of all suppliers, including nations not members of the regime, to control nuclear and nuclear-related exports in accordance with the NSG guidelines.

Expenses

Pursuant to Section 401(c) of the National Emergencies Act (50 U.S.C. 1641 (c)), I report that there were no expenses directly attributable to the exercise of authorities conferred by the declaration of the national emergency in Executive Order 12938 during the period from November 14, 1997, through May 14, 1998.